

EXHIBIT 1

INTRODUCTION

Respondent Kevin Dunigan has been a member of the Planning Commission for the City of Inglewood since January of 1998. As a planning commissioner, Respondent holds an office that is described in section 87200 of the Political Reform Act (the “Act”).¹ Pursuant to section 87203, every person who holds an office that is described in section 87200 is required to file an annual statement of economic interests each year, disclosing his or her reportable financial interests during the preceding calendar year. Respondent failed to timely file his 2003 annual statement of economic interests that was due April 1, 2004.

For the purposes of this Default, Decision and Order, Respondent’s violation of the Political Reform Act is stated as follows:

As a member of the Planning Commission of the City of Inglewood, Respondent Kevin Dunigan failed to file a 2003 annual statement of economic interests by April 1, 2004, in violation of Government Code section 87203.

PROCEDURAL HISTORY

An enforcement action was initiated against Respondent Kevin Dunigan with a Report in Support of a Finding of Probable Cause being personally served on Respondent on November 20, 2004. Along with the Report in Support of a Finding of Probable Cause, which summarized the law and evidence applicable to the case against him, Respondent was served with documents explaining the administrative enforcement process and informing him that he had 21 days in which to request a probable cause conference with the Executive Director of the Fair Political Practices Commission (the “FPPC”) and/or file a written response to the probable cause report. Respondent did not request a probable cause conference or file a written response to the probable cause report. On December 23, 2004, Executive Director Mark Krausse issued an Order Finding Probable Cause as to the violation alleged in the probable cause report. On December 23, 2004, the Order Finding Probable Cause was served on Respondent by mail.

Pursuant to the California Administrative Procedure Act (the “APA”),² a respondent is entitled to a hearing on the merits if the respondent files a Notice of Defense within 15 days after service of the Accusation. (Section 11506.) The APA further provides that a respondent’s failure to file a Notice of Defense constitutes a waiver of the respondent’s right to a hearing. (Section 11506, subd. (c).) Section 11520, subdivision (a) also provides that a default order may be entered against a respondent if the respondent fails to timely file a Notice of Defense.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

² The California Administrative Procedure Act is contained in Government Code sections 11370 through 11529.

On February 2, 2005, Respondent was personally served with an Accusation in this matter. The proof of service is attached hereto as Attachment A. Along with the Accusation, the Enforcement Division served Respondent with a "Statement to Respondent" which notified Respondent that he could request a hearing on the merits and warned Respondent that, unless a Notice of Defense was sent within fifteen days of service of the Accusation, Respondent would be deemed to have waived his right to a hearing. Respondent did not file a Notice of Defense, and the Enforcement Division has not received any communication from Respondent after service of the probable cause report.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, section 87203 requires every person who holds an office described in section 87200 to annually file, at a time specified by the FPPC's regulations, a statement of economic interests disclosing his or her reportable investments, interests in real property, and income. A member of a planning commission is one of the offices described in section 87200. Under regulation 18723, subdivision (b)(2), the due date for a city planning commissioner to file an annual statement of economic interests is April 1st of each year (or the next business day after April 1st, if April 1st falls on a Saturday, Sunday, or official holiday).³ The statement must include all of the commissioner's reportable economic interests during the preceding calendar year. (Regulation 18723, subd. (b).)

Under section 87500, subdivision (g), a planning commissioner must file his or her statement of economic interests with the planning commission on which he or she serves, and the planning commission shall retain a copy of the statement and forward the original to the FPPC, the filing officer for members of planning commissions.

SUMMARY OF THE FACTS

According to personnel records maintained by the City of Inglewood, Respondent Dunigan assumed office as a member of the Planning Commission for the City of Inglewood on January 23, 1998. As a planning commissioner, Respondent is required to file a statement of economic interests for each year that he remains in office. According to records maintained by the SEI Unit of the FPPC, Respondent was required to file a 2003 annual statement of economic interests by April 1, 2004, but did not do so.

As reflected in records maintained by the SEI Unit, when Respondent failed to file his 2003 annual statement of economic interests in a timely manner, Cyndi Glaser, of the SEI Unit, sent a letter to Respondent on July 9, 2004, advising him that his 2003 annual statement of economic interests was past due, and requesting that he file the statement within 30 days. On August 27, 2004, after receiving no response to the letter, Ms. Glaser sent a second letter to

³ Regulation 18116.

Respondent. This second letter reiterated that Respondent's 2003 annual statement of economic interests had not been filed, and noted that there had been no response to her July 9, 2004 letter. The second letter advised Respondent that if the statement was not filed within 10 days, the matter would be referred to the FPPC's Enforcement Division for further action.

On October 4, 2004, Dixie Howard, of the SEI Unit, referred the matter of Respondent's delinquent filing to the Enforcement Division. On November 7, 2004, Investigator Charlie Bilyeu of the Enforcement Division contacted Respondent by telephone and advised him to file his 2003 annual statement of economic interests. Thereafter, on November 8, 2004, Respondent filed the delinquent statement. Respondent, however, did not respond to several attempts made by the Enforcement Division to resolve the matter by way of a stipulated administrative penalty.

Respondent's conduct is part of a pattern of non-compliance with the economic interest disclosure provisions of the Act. Besides not timely filing his 2003 annual statement of economic interests, Respondent previously failed to timely file five other annual statements of economic interests for calendar years 1998, 1999, 2000, 2001, and 2002. Respondent ultimately filed each of the five previous campaign statements, but only after receiving several notifications by the SEI Unit and the Inglewood City Clerk's Office after each statement had not been filed.

CONCLUSION

This matter consists of one count of violating section 87203, which carries a maximum possible administrative penalty of Five Thousand Dollars (\$5,000). Although the Commission has a streamlined enforcement program for statement of economic interests non-filing cases, this case was removed from the SEI Streamlined Program, which imposes relatively low penalties, due to Respondent's egregious history of failing to file annual statements of economic interests by the filing due date.

The administrative penalty for SEI non-filing violations resolved outside of the SEI Streamlined Program has historically been determined on a case-by-case basis. In this matter, although Respondent filed his delinquent statement after being contacted by the Enforcement Division, Respondent's conduct is part of an egregious pattern of non-compliance with the economic disclosure provisions of the Act. Over the course of five years, Respondent filed his delinquent statements of economic interests only after repeated notifications by two filing officials. Due to the aggravated nature of the violation, and Respondent's failure to take the initiative to resolve this matter, a penalty that is somewhat higher than the middle of the penalty range is appropriate.

Accordingly, the facts of this case justify imposition of an administrative penalty of Three Thousand Dollars (\$3,000).